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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,166	07/12/2004	Albert Maria Arnold Rijkaert	2069.055US1	5382
21186 7590 01/05/2009 SCHWEGMAN, LUNDBERG & WOESSNER, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402				
EXAMINER TESLOVICI, TAMARA				
ART UNIT 2437		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/501,166

**Applicant(s)**

RIJKAERT ET AL.

**Examiner**

Tamara Teslovich

**Art Unit**

2437

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 29, 2008 has been entered.

Claims 1-2 and 5-15 are amended.

Claims 1-15 are pending and herein considered.

### ***Response to Arguments***

Applicant's arguments filed October 29, 2008 have been fully considered but they are not persuasive.

Applicant's amendments to claims 1, 12, and 15 serve to overcome the Examiner's previously set forth objections. Those objections have been withdrawn.

Applicant's amendments to the specification serve to overcome the Examiner's previously set forth objections to the specification. Those objects have been withdrawn.

Applicant's amendments to claims 1, 3, 5, 6-7, and 9-10 serve to overcome the Examiner's previously set forth 35 USC 112 rejections. Those rejections have been withdrawn.

In response to Applicant's remarks concerning Candelore's alleged failure to anticipate claims 1-3 and 5-15, the Examiner respectfully disagrees and maintains her rejection.

In response to Applicant's first set of arguments concerning Candelore's alleged failure to teach or suggest "a time stamp associated with a time stamp value indicative of a time at which the entitlement control message linked to the time-stamp was distributed," the Examiner respectfully disagrees. Drawing attention to Figure 6B, the Examiner would like to point out the "Time X" timestamp in ECM 660 which includes the current time, or the time of creation. Furthermore, the Examiner would like to point out that Candelore's time period is a duration, a length of time which has a particular start and end time. Additionally, column 9, lines 35-62 discloses the expiration of keys from an older time period, i.e. an older timestamp. Insofar as Applicant's remarks concerning claims 7, 9, and 10 depend on those concerning claim 1, the Examiner maintains her rejection of claims 7, 9 and 10 for the same reasons as given above with regards to claim 1.

Applicant's remarks concerning claims 4 and 12-15 depend on those presented above and are rejected for the same reasons.

It is for the reasons presented above that the Examiner maintains her rejection of claims 1-15, included below in an amended form to reflect Applicant's amendments.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "*at least far enough*" into the past to contain at least a television program or a *meaningful* part of such a program" is a subjective test that renders these claims indefinite. The terms "meaningfully" and "at least far enough" are not defined by the claim nor does the specification provide a standard for ascertaining the requisite degree. One of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-3 and 5-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Candelore (US 6,363,149).**

Regarding claim 1, Candelore discloses a method of distributing units of encrypted information and providing conditional access to the units using a secure device capable of selectively enabling decryption of said units, the method comprising:

distributing a stream comprising the units of information successively, the stream including a plurality of entitlement control message, wherein each of the entitlement control messages is linked to a respective time-stamp, the respective time stamp associated with a time-stamp value indicative of a time at which the entitlement control message linked to the time stand was distributed (col. 10, lines 55-67, lines 33-42; col. 11, lines 1-15);

sending an entitlement management message to the secure device, the entitlement message including a specification of a range of time-stamp values and entitling the secure device to enable decryption of the units of information that are linked to time-stamp with time stamp values in that range (col. 11, lines 34-49), wherein the range has a starting point prior to a time value corresponding to when the entitlement management message is sent (col. 11, lines 1-15; col. 10, lines 55-67; col. 9, lines 49-67) a memory card (col. 6, lines col. 7, lines 13-34).

Regarding claim 2, Candelore discloses the method wherein the stream is distributed to a plurality of subscribers (col. 12, lines 59-64); each with an own secure device is an intrinsic property of the claimed invention, as without the secure device the content cannot be rendered to the customers (col. 6, lines 52-65; col. 9, lines 1-7); and wherein the entitlement management message is one of a plurality or

respective entitlement management messages, each sent receivable for the secure device of a respective one of the subscribers (col. 7, lines 24-35), each entitlement management message including a specification of a respective range of time-stamp values (col. 11, lines 34-49), including;

receiving subscriber dependent information (col. 12, lines 54, lines 54-64);  
setting a distance of said starting point to said time value in each of the respective ranges according to a respective distance value (col. 12, lines 60, 64; col. 10, lines 32-42 and selecting each respective distance value from a set of two or more distance values, dependent on the subscription information for the subscriber for whose secure device the entitlement management message is receivable (col. 9, lines 35-62; see figure 5A of the drawings).

Regarding **claim 3**, Candelore discloses the method wherein the entitlement management message is one of a series of successive ones entitlement management messages, each specifying its own range so that said slides with time so that the stating point substantially has a time independent distance to said time value (col. 4, lines 15-18; col. 9, lines 25-29; col. 11, lines 34-49; col. 10, lines 22-53).

Regarding **claim 5**, Candelore discloses the method wherein the range ends substantially before the time value corresponding to when the entitlement message is sent (col. 11, lines 34-49).

Regarding **claim 6**, Candelore discloses the subscription information comprising, for one of the subscribers, a selection of a further range ending prior to the time value of

the time stamps distributed at a time of receiving said selection, the method comprising sending a further entitlement message in addition to said entitlement messages, the further entitlement management specifying the further range and entitling the secure device to enable decryption of units of information that are linked to time-stamps with values in that further range (col. 10, lines 42-67).

**Claims 7-8** correspond to a system employing the method of claims 1-2 and are rejected accordingly.

Regarding **claim 9**, Candelore discloses an input for receiving entitlement management messages (col. 4, lines 36-65); a memory for maintaining a current time count (col. 6, lines 52-67; col. 7, lines 1-12); a management unit for selectively enabling decryption of the information units under control of the entitlement management messages that includes a specification of a range of time-stamp values linked to entitlement control messages included in the units of information, for which the secure device has to enable decryption, wherein starting point for the range initially has a time value prior to the current time count (col. 4, lines 35-67; col. 6, lines 52-64; col. 10, lines 33-43).

Regarding **claim 10**, Candelore discloses an information distribution device arranged to distribute a stream of successive units of encrypted information to a secure device, each unit linked to a respective time-stamp; the device comprising;

a transmitting unit for transmitting the stream, the stream including a plurality of entitlement control messages, wherein each for the entitlement control messages is



linked to a respective time-stamp, the respective time stamp associated with a timestamp value indicative of a time at which the entitlement control message linked to the time-stamp was transmitted (col. 10, lines 55-67, lines 33-42; col. 11, lines 1-15);

the transmitting unit for transmitting an entitlement management message including a specification of a range of time-stamp values the entitlement management message entitling the secure device to enable decryption of units of information that are linked to time-stamps with values in that range so that the range initially has a starting point prior to a time value corresponding to when the entitlement management message is sent (col. 10, lines 5-27; col. 4, lines 35-67; col. 6, lines 52-64; col. 10, lines 33-43).

Regarding **claim 11**, Candelore discloses the information distribution device according to claim 10, arranged to distribute the stream to a plurality of subscribers (col. 12, lines 59-64); each having a respective secure device (col. 6, lines 52-65; col. 9, lines 1-7) the entitlement management message being one of a plurality of entitlement management messages for reception by respective ones of the secure devices (col. 7, lines 24-35), each entitlement management message specifying a respective range of time-stamp values (col. 11, lines 34-49), comprising; an input for receiving subscriber dependent information (col. 12, lines 54, lines 54-64) means for setting a distance of said starting point to said time value in each of the respective ranges according to a respective distance value (col. 12, lines 60, 64; col. 10, lines 32-42), the means selecting each respective distance value from a set of two or more distance values, dependent on the subscription information for the subscriber for whose secure device

the entitlement management message is receivable (col. 9, lines 35-62; see figure 5A of the drawings).

Regarding **claim 12**, Candalore discloses wherein sending an entitlement message includes entitling the secure device to enable decryption of units of information that are linked to time-stamps with values with the starting points at least far enough into the past to contain at least a television program or a meaningful part of such a program prior to the time value of a current time (col. 10, lines 55-67, lines 33-42; col. 11, lines 1-15).

Regarding **claim 13**, Candalore discloses wherein the starting point is at least one or more hours prior to the time value of the current time (col.11 lines 1-15).

Regarding **claim 14**, Candalore discloses wherein the starting point is at least one day prior to the time value of the current time (col.11 lines 1-15).

Regarding **claim 15**, Candalore discloses wherein sending an entitlement message includes entitling the secure device to enable decryption of units of information that are linked to time-stamps with values with the starting points at least sufficiently far into the past to contain at least a television program (col. 10, lines 55-67, lines 33-42; col. 11, lines 1-15) and at least one week prior to the time value of the time stamps distributed concurrent with the entitlement management messages (col.11 lines 1-15).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Candelore (US 6,363,149) and further in view of Thexton et al. (US 6,772,435).**

Regarding **claim 4**, Candelore discloses adjusting said starting point to a time independent distance before the current time value, the secure device deriving the time independent distance from said one of the entitlement management unit at least for a series of successive current time value (col. 10, lines 60-67; col. 13, lines 1-15; col. 11, lines 34-49).

However, Candelore does not disclose a secure device that maintains and updates a current time value corresponding to the time value of the time stamps as they are distributed as a function of time.

Thexton discloses a synchronizer to update current time value corresponding to the time value of the time stamps as they are distributed as a function of time (col. 1, lines 55-60). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Candelore to include the use of a synchronizer in order to update the current time, such that subscriber may access past broadcast content at a later date.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara Teslovich whose telephone number is (571)272-4241. The examiner can normally be reached on Mon-Fri 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tamara Teslovich/  
Examiner, Art Unit 2437

/Emmanuel L. Moise/  
Supervisory Patent Examiner, Art Unit 2437

